

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

<b>SHANNA W. SMITH,</b>	§	
<b>Plaintiff</b>	§	
	§	
<b>VS.</b>	§	<b>NO: 2:14-cv-350</b>
	§	<b>(JURY)</b>
	§	
<b>TIRE CENTERS LLC,</b>	§	
<b>Defendant</b>	§	

**PLAINTIFF'S ORIGINAL COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, **SHANNA W. SMITH** (“**SMITH**”), Plaintiff, and files this her Original Complaint, complaining of and against **TIRE CENTERS LLC** (“**TIRE CENTERS**”), Defendant in this cause, and in support thereof, would respectfully show the Court the following, to-wit:

1. Plaintiff is a citizen of the State of Texas.
2. Defendant, **TIRE CENTERS**, is a foreign corporation with its principle residence and place of business in the State of South Carolina, and its place of incorporation in Delaware. Defendant may be served with summons by serving its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136
3. The matter in controversy exceeds, exclusive interest and costs, the sum specified by 28 U.S.C. §1332, and Plaintiff and Defendant are residents and citizens of different states; therefore, this Court has jurisdiction.
4. This Court has venue because this accident occurred in the Eastern District of Texas, and Plaintiff was a resident in the Eastern District of Texas when the accident occurred. Furthermore, Defendant regularly conducts business in the Eastern District of Texas, Marshall Division.

5. On or about June 2, 2013, Plaintiff, SMITH, was traveling on East Gentry Parkway in Tyler, Texas when her vehicle was struck by a wheel and tire which had fallen out of Defendant's Ford F550 flatbed truck being driven by Erik S. Miller.

6. At all times pertinent to this lawsuit, Erik S. Miller was in the course and scope of his employment, master-servant, or agency relationship with Defendant, TIRE CENTERS, and Plaintiff invokes the doctrine of *Respondeat Superior*.

7. On the occasion in question, Defendant's driver, operated the 2005 Ford F550 flatbed truck in a negligent manner, in that he violated the duty which he owed to Plaintiff to exercise ordinary care in the operation of his motor vehicle, *inter alia*, in failing to properly secure its cargo, i.e., wheels and tires, and in violating such laws and ordinances so as to constitute negligence *per se*. Each of these acts and omissions, singularly, or in combination with others, constituted negligence which proximately caused the occurrence made the basis of this action and Plaintiff's injuries and damages.

8. As a direct and proximate result of the previously described negligence of the Defendant, Plaintiff, SMITH, suffered injuries to her body generally. These injuries are permanent in nature and in all reasonable probability, said Plaintiff will suffer for a long time into the future, if not for the balance of her natural life. Plaintiff has suffered severe physical pain and mental anguish, and in reasonable probability, will suffer such physical pain and mental anguish in the future. Plaintiff has incurred medical expenses and lost wage earning capacity in the past, and in reasonable probability will incur such in the future. Further, Plaintiff has suffered severe physical impairment and disfigurement, and in reasonable probability, will suffer such physical impairment and disfigurement in the future. This suit is brought for fair, reasonable and adequate compensation for all of her damages, and it is alleged that such compensation is well in excess of \$100,000.00.

9. Plaintiff would show that she is entitled to both pre-judgment and post-judgment interest at the highest rates allowed by law or statute.

**REQUEST FOR JURY TRIAL**

11. Plaintiff respectfully requests a trial by a jury of her peers.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer, and that upon final trial, Plaintiff recovers a judgment against the Defendant for her damages, interest, costs, and for such other and further relief to which Plaintiff may be justly entitled, general and special, at law and at equity.

**RESPECTFULLY SUBMITTED:**

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/s/ Randy Akin

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